

139.340 Retailer's duty to collect tax -- Taxes deemed to be held by retailer in trust.

- (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state shall collect the tax imposed by KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the department. The taxes collected or required to be collected by the retailer under this section shall be deemed to be held in trust for and on account of the Commonwealth of Kentucky.
- (2) "Retailer engaged in business in this state" as used in this chapter includes any of the following:
 - (a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary or any other related entity, representative, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business maintained, occupied, or used by the person;
 - (b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser, or solicitor for the person;
 - (c) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media, or other facility or service located in this state;
 - (d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state;
 - (e) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, systematic basis if the retailer benefits from an agent or representative operating in this state under the authority of the retailer to repair or service tangible personal property sold by the retailer; or
 - (f) Any retailer located outside Kentucky that uses a representative in Kentucky, either full-time or part-time, if the representative performs any activities that help establish or maintain a marketplace for the retailer, including receiving or exchanging returned merchandise.

Effective: August 1, 2005

History: Amended 2005 Ky. Acts ch. 168, sec. 73, effective August 1, 2005; and ch. 85, sec. 418, effective June 20, 2005. -- Amended 2003 Ky. Acts ch. 124, sec. 17, effective July 1, 2004. -- Amended 1996 Ky. Acts ch. 215, sec. 1, effective July 15, 1996. -- Amended 1990 Ky. Acts ch. 137, sec. 2, effective July 13, 1990; and ch. 414, sec. 1, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 111, sec. 2, effective July 15, 1988; and ch. 171, sec. 1, effective July 15, 1988. -- Created 1960 Ky. Acts ch. 5, Art. I, sec. 33, effective February 5, 1960.

Legislative Research Commission Note (6/20/2005). This section was amended by 2005 Ky. Acts chs. 85 and 168, which do not appear to be in conflict and have been codified together.

2004-2006 Budget Reference. See State/Executive Branch Budget, 2005 Ky. Acts ch. 173, pt. III, 30., at 3147; and State/Executive Branch Budget Memorandum, 2005 Ky. Acts ch. 170, at 1629 (Final Budget Memorandum, at 52).